



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/945,246

08/31/2001

Chet D. Linton

8808.11

1295

21999

7590

06/29/2006

KIRTON AND MCCONKIE

1800 EAGLE GATE TOWER

60 EAST SOUTH TEMPLE

P O BOX 45120

SALT LAKE CITY, UT 84145-0120

EXAMINER

DAVIS, GEORGE B

ART UNIT

PAPER NUMBER

2129

DATE MAILED: 06/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/945,246

Applicant(s)

CHET D. LINTON

Examiner

George Davis

Art Unit

2129

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/7/06.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 9-17 are objected to because of the following informalities: Claim 12, line 16, after "test;" insert - - and - -. Claim 9, line 2, delete "for" and insert - - of - -.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 18 and 12-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the workflow" in line 7.

Claim 1 recites the limitation "said professional works" in line 10.

Claim 1 recites the limitation "the success" in line 11.

Claim 1 recites the limitation "the performance" in line 11.

Claim 2 recites the limitation "said supervisor" in line 2.

Claim 7 recites the limitation "the workflow" in lines 5 and 6.

Claim 7 recites the limitation "said professional's environment" in line 9.

Claim 7 recites the limitation "the success" in line 10.

Claim 7 recites the limitation "the performance" in lines 10 and 11.

Art Unit: 2129

Claim 12 recites the limitation "the effectiveness" and "said implementation" in line 11.

Claim 12 recites the limitation "said test" in line 12.

Claim 12 recites the limitation "said professional's implementation" in line 15.

Claim 12 recites the limitation "said analysis" in line 17.

There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The language of the claims are directed merely to an abstract idea that has no limitation to a practical application which produces a concrete result. Claim 1, the step "providing evaluation of the success of said training"; claim 7, the step "providing evaluation of the success of said professional"; claim 9, the step "utilizing the Internet to access said user's knowledge of the information"; and claim 12, the step "utilizing said analysis to evaluate professional training" fail to establish a concrete result. With regard to system claims 1-11, Federal Circuit also recognizes that the fact that a nonstatutory method is carried out on a programmed computer does not make the process claims statutory. Grams, 888 F. 2d at 841, 12 USPQ2d at 1829 (claim 16 ruled nonstatutory

even though it was a computer-implemented process). Therefore, the claimed invention is directed to non-statutory subject matter.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Gray et al, U.S. Pat. No. 6,944,596.

As per claim 1, Gray discloses providing training that teaches skills (present a training simulation to a user for achieving goal, see abstract lines 1-3), allowing said training comprises receiving training over the Internet, wherein said matrix incorporates said skills learned in said training into the workflow and daily activities of a professional undergoing said training (col. 14, lines 61-67), providing work sheets and guidelines within said matrix for integrating said training into an environment wherein said professional works (abstract, lines 1-13 and figure 48), assessing the success of said training in improving the performance of said professional (see col. 38, lines 29-45) and providing evaluations of the success of said training (it is just like assessing the success or achievement of the training, see col. 38, lines 29-45).

As per claim 2, Gray discloses said step of providing evaluations of the success of said training, further comprises providing evaluations to said supervisor of said professional (figure 5, device 504).

As per claim 3, Gray discloses said step of providing evaluations of the success of said training, further comprises providing evaluations to said professional for self-assessment (figure 5, device 506).

As per claim 4, Gray discloses said training is professional development training (a coach, see figure 9A, device 870).

As per claim 5, Gray discloses said training is provided on-line (web based communication, see figure 9A).

As per claim 6, Gray discloses said on-line training comprises audio, video or DVD training (figure 9A).

As per claim 7, Gray discloses providing on-line professional development training (web based network, see figure 9A), providing a matrix for said on-line professional development training, wherein said matrix incorporates skills learned in said professional development training into the workflow and daily activities of a professional undergoing said professional development training (col. 14, lines 61-67), providing work sheets and guidelines within said matrix for integrating said professional development training into said professional's environment (abstract, lines 1-13 and figure 48), assessing the success of said professional development training in improving the performance of said professional (see col. 38, lines 29-45) and providing evaluations of the success of said professional (it is just like assessing the success or

Art Unit: 2129

achievement of the training, see col. 38, lines 29-45).

As per claim 8, Gray discloses said matrix is based on standards provided by an industry (see figure 2, device 202).

As per claim 9, Gray discloses providing information to a user, wherein said information relates to a particular profession (figure 2, device 202), and wherein said information comprises Internet based information (web based, see figure 9A), enabling said user to learn skills and knowledge from said information that can be incorporated into said user's particular profession (see figure 3, devices 304 and 300), enabling said user to organize an instructional plan relating to said information, wherein said instructional plan is based on said skills and knowledge acquired by said user (figure 4, device 400) and electronically assessing utilizing the Internet to access said user's knowledge of the information (figure 4, device 406 and figure 5, device 502).

As per claim 10, Gray discloses providing information to a user further comprises said user accessing said information on-line (web based system, see figure 9A).

As per claim 11, Gray discloses said information is based on standards regulating said particular profession (integrating standard in a business, see figure 8A, device 806).

As per claim 12, Gray discloses providing standards for professionals (create a model for employees, see figure 8B, device 852), providing a communication media (see figure 9A), providing a first electronic media and a second electronic media (figure 9A, devices 900 and 901), broadcasting said standards through said communication media to train at least one professional per said standards (figure 5, device 500),

Art Unit: 2129

accessing a lesson plan development matrix through said FIRST electronic media (figure 4, device 406), developing a lesson plan using said lesson plan matrix (figure 9A, 9D and 9E), implementing said lesson plan into lessons for students (figure 9A), testing said students to gauge the effectiveness of said implementation (figure 5, device 506), generating assessment data from results of said test (figure 4, device 406), inputting said standards into said second electronic media (figure 9A), inputting said data into said electronic media (figure 9A), analyzing said data to assess said professional's implementation of said matrix through a test (figure 7, device 704 and) and utilizing said analysis to evaluate professional development training (figure 5, device 510).

As per claim 13, Gray discloses said professional standards are pedagogical standards (figure 8A, device 806).

As per claim 14, Gray discloses providing access to said standards to a third party (figure 9A, devices 900 and 901).

As per claim 15, Gray discloses evaluating the success of said implantation and modifying the lesson plans based on said success (col. 38, lines 29-38).

As per claim 16, Gray discloses said evaluation is implemented in later-formed matrices (matrices are the relationship between employees and environment, see figure 7).

As per claim 17, Gray discloses evaluating the professional on the basis of said data (figure 7, device 706 and 708).

Art Unit: 2129

4. Applicant's arguments filed 4/7/06 have been fully considered but they are not persuasive.

Ground of rejections, either modified or new are introduced. 35 U.S.C. 101 rejection is modified according to the Interim Guidelines. Also, 35 U.S.C. 102(e) is a new ground of rejection.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Davis whose telephone number is (571) 272-3683. The examiner can normally be reached on Monday through Friday from 10:00 am to 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Vincent, can be reached on (571) 272-3080. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-3800.

June 25, 2006

A handwritten signature in black ink, appearing to read 'G. B. Davis', with a large, stylized loop at the end.

GEORGE B. DAVIS

PRIMARY PATENT EXAMINER